

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

Pl. EX.

1

ERIC DePaola

Plaintiff,

V.

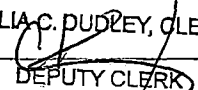
Civil Action No. 7:16cv00485

HAROLD CLARKE, et al.

Defendants.

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

JUN 26 2017

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

DECLARATION IN OPPOSITION OF DEFENDANTS
MOTION FOR SUMMARY JUDGMENT

1. I Eric DePaola (Plaintiff) hereby declare under penalty of perjury that the foregoing is true & correct.
2. I base all information contained herein upon personal knowledge.
3. I hereby re-affirm & incorporate herein all previously submitted information contained in my Verified Complaint submitted Dec. 18, 2016. for review in consideration of this Opposition of def. mo. for summ. j.
4. The Holy Islamic scriptures known as Hadith require Muslims to grow facial hair.
5. O.P. 830.A, a VDoc policy, allows for prisoners to be rated each month in re. to their compliance w/ the VDoc grooming policy (O.P. 864.1) see pl. EX. A. & pl. EX. B
6. A team of BOSP officials meets monthly without the presents of prisoners & makes said ratings on a status

rating chart see Pl. EX. B.

7. These reviews/ratings are done without the prisoners knowledge & for without any due process, warning, etc.
8. Prisoners' Privilege Status & Security level are affected by these ratings, as prisoners must advance through the privilege levels to be considered for reduction in security level.
9. Pursuant to O.P. 830.A prisoners whom do not comply with the 14 inch grooming policy may not participate in the Segregation Step-down Program; are not allowed to attend groups, or earn any privileges. See Pl. EX. K.
10. Prisoners whom are given poor reviews/ratings in re. to non-compliance with the grooming policy are stripped of privileges including jobs, extra commissary items, extra library books, visits, phone calls, personal T.V., radio, programming, video visits, MP3 players. See Pl. EX. C., as well as Pl. EX. K.
11. Neither grooming policies O.P. 830.A or O.P. 864.1 are applied in an orderly & fair fashion see Pl. EX. D & Pl. EX. E as well as Pl. EX. F.
12. Prisoners assigned I/M status at RSP are not permitted to go to the Grooming Standards Violator Housing Unit (VHU). Pursuant to VDOC, O.P. 830.A. & O.P. 864.1.
13. I have made the defendants aware of the fact that barber services are not offered on a regular basis via informal complaints & grievances. See Pl. EX. G-J.
14. Other prisoners at RSP have also constantly made the defendants aware that barber services are not being

provided & for are being refused by guards at Rost see Pl. EX. F.

15. There are two (2) barbers assigned to each building of units at Rost.

16. During all relevant times in re. to the defendant's actions from the date of 11-3-2015 forward there were two (2) barbers assigned/available to the building in which Pl. was/is held. As well as most of the time beforehand.

17. To no avail, the Pl. repeatedly requested that the defendants still, Swiney & Lyall allow for the barber to groom the Pl. so that he could be in compliance w/ the grooming standards & not have to shave his beard completely off in violation of his religious obligations.

18. The requests made by Pl. to above named defendants were made before & after the Pl. was compelled to shave his beard completely off.

19. On 11-3-2015, Det. Lyall wrote me a Charge titled: Refusing to obey an order to comply w/ the VDOC grooming standards. The Charge described (made by det. Lyall) only states that "while making rounds I observed that the offender had a goatee several inches long. The offender is not in compliance w/ O.P. 864. see Pl. EX. L.

20. The det. Lyall does not allege that he gave me any order to get in compliance w/ the grooming policy before he wrote the Charge nor does he allege that I refused such an order. see Pl. EX. L.

21. On 11-17-15 the Inmate Hearings officer responded via written request form. Confirming that the 133 grooming

instructor had been dismissed. See Pl. EX.M.

22. Normally out of compliance persons are given an order to comply w/ the grooming procedure. If the non-compliant person wishes to get in compliance a barber is always immediately provided to perform barber services.

23. After the non-compliant individual gets into compliance he is then immediately eligible to earn privileges & is most often given certain privileges immediately.

24. The only option an individual has to comply w/ the grooming policy if he is denied/not provided barber services is to shave his hair completely off using a single blade razor during shower time (3 times a week). This of course violates ones religious obligations.

25. The mirrors that are in the showers which are for shaving purposes are mostly damaged causing one to have to shave in the blind.

26. On 11-3-15 the defendants Stanley, & Fleming, & Lyall confiscated my personal T.V. based upon my reduction in privilege level due to the grooming issue. See Pl. EX.N.

27. In the C-5 pod/unit, where the pl. was held, during all relevant times in re. to this action, there is a pod T.V. projector mounted on the pod/unit wall.

28. The defendants own policy (O.P. 830.A) dictates that prisoners be provided w/ a pod T.V. to observe religious & educational services see Pl. EX.C.

29. To no avail, the pl. requested, both verbally & in writing, that the defendants Barksdale, Still, Swiney, Lyall, Fleming & Stanley simply turn on the pod T.V.

so that Pl. could observe his required religious services
see Pl. EX. O-B.

30. To my belief, the defendants Clarke & others at
Rosh have entered into a Settlement Agreement in a
Civil Rights action which requires the defendants to
provide Islamic religious videos to be showed over a
Closed broadcast system to prisoners at Rosh.

31. This Agreement was reached in Brown v. Ray U.S.D.C.
(W.D.Va.) Case no. 7:09-cv-00180-pms. Which provides that
defendants shall show Islamic videos in the above
stated manner.

I Eric DePaola hereby declare under penalty
of perjury that the foregoing information contained herein
is true & correct. Except as to that which is expressly
stated to be based upon belief. To those statements I
believe those to be true & correct as well. Executed
at: Wise Co VA, on the date of: 6-19-17.

S/Eric DePaola